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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,175	02/17/2004	Jeffrey A. Schultz	1981/660	9858
757 7590 03/01/2007 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER RIVELL, JOHN A	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 03/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/780,175	Applicant(s) SCHULTZ, JEFFREY A.	
	Examiner John Rivell	Art Unit 3753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to, or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-22.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

The proposed amendment after Final rejection filed February 6, 2007 will not be entered because the proposed amendment to claim 14 raises a new issue regarding 35 USC 112(1). Additionally, the specification objection concerning paragraph [0030] stands.

For the purposes of Appeal, the grounds of rejection set forth in the Final Office Action of December 8, 2006 remain.

Concerning the specification objection consider the following. Applicants remarks of February 6, 2007, at section C, explicitly state that, and it is agreed that, "cap 130... is exposed to atmosphere". Further, as stated, "when the pressure increases past a predetermined pressure, the force exerted by the pressure against the sealing member 122 and pin 124 will exceed the load of spring 126, causing the spring to compress so that the chamber 120 and pathway 112 are in fluid communication". However, it is disagreed that "excess pressure may exit out of the passageway 112" as described and it is also disagreed that "the pin 124 prevents communication between chamber 120 and the area surrounding the pin when the valve is in an unactuated state".

Concerning the latter, as shown in figure 3, there is nothing preventing flow of fluid between chamber 120 and hole 105. As illustrated, chamber 120 appears as an annular chamber about the exterior periphery of what appears to be an upstanding valve seat whose rim is in contact with valve seal 122. Holes 105 appear peripherally about the chamber 120 in the sidewall of valve insert 104 (numeral 104 appears to be missing) and appear to freely conduct fluid flow between atmosphere and chamber 120.

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Whether the valve pin 124 is open or closed, a fluid path between chamber 120 and atmosphere, through holes 105, is always present. Thus the pin 124 does not prevent communication between chamber 120 and the area surrounding the pin as argued.

In the specification, para. [0030] states in its entirety:

"[0030] Operation if the pressure relief valve 102 is similar to that above. Pressure within the tire enters from the holes 105 and into the chamber 120, applying a force against the sealing member 122 and pin 124. When the pressure in the tire rises to the predetermined pressure, the pressure against the sealing member 122 and pin 124 will exceed the load of the spring 126. The spring 126 will thus be further compressed and the sealing member 122 and pin 124 will no longer biased in a direction opposite the spring 126. The excess pressure will be able to pass from the chamber 20 and exit out the pathway 112."

It is not the description at para [0029] that raises questions but the second sentence of para [0030].

As stated above, "pressure within the tire enters from the holes 105 and into chamber 120, applying pressure... able to pass from the chamber 20 [120] and exit out the passageway 112".

As set forth in para [0030] fluid flows from the pressurized area inside the tire to holes 105, from holes 105 to chamber 120, from chamber 120 to passageway 112 (when the valve is open).

Considering the above description in view of figure 3, this flow path will not work.

As applicant has stated, "cap 130 is exposed to atmosphere". As such the area at 105 is exposed to atmosphere.

How then does fluid flow from within the tire directly to the holes 105?

Additionally, if the area at 105 is exposed to tire pressure (which would allow "pressure

within the tire (to) enter from the holes 105") fluid pressure within the tire, exposed to the spring side of the valve head 124 will act on a larger area of the valve head in opposition to the area of chamber 120 thus always overpower fluid pressure acting only on the area at 120 thus tending to maintain the valve closed.

The current description of figure 3 as set forth in para [0030] above is believed in error. As such the description of a "reverse position of the pressure relief valve" of para [0033] would in effect describe a working embodiment. Should the description at para [0030] be corrected to describe a working embodiment, then a "reverse position of the relief valve" set forth in para [0033] would not work.


Regarding the proposed amendment to claim 14, the proposed amendment raises new issues regarding 35 USC 101 concerning utility and 35 USC 112, first paragraph, in that there is no description of reversing only the "cushioning member". As set forth in para [0033], the valve position is reversed to thus reverse the cushioning member. Depending on which embodiment described is correct (para [0030] versus para [0033]), one of these embodiments will not work. Claim 14 then, as proposed, would thus encompass an embodiment that will not work.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John Rivell
Primary Examiner
Art Unit 3753

j.r.